IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 17TH NOVEMBER 2006 / 26TH KARTHIKA 1928

WP(C).No. 30417 of 2006(U)

PETITIONER:

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1. M.S.ENTERPRISES, 2/744-B,
   KALLOORKAL BUILDING, VANIAMKULAM,
   PALAKKAD DT., REPRESENTED BY ITS MANAGING
   PARTNER MR.HYDRU SIDHIQUE.

2. P.K.TRADERS, 3/37,
   KOTTAKKAL P.O., MALAPPURAM DISTRICT,
   REPRESENTED BY ITS PROP.P.K.BASHEER.

3. M/S.EBRAHIM COMPANY, VI-352,
   CHALISSERY P.O., PALAKKAD DT., REP. BY ITS
   PROP.MR.M.M.EBRAHIM.

4. M/S.SHABEER ENTERPRISES,
   KUMARANELLOR P.O., WADAKKANCHERRY,
   TRISSUR-680 590, REP. BY ITS PROP.A.H.MOHAMMED.

BY ADV. SRI.C.K.KARUNAKARAN SC FOR (TBGARI)
SRI.C.E.UNNIKRISHNAN

RESPONDENTS:

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1. UNION OF INDIA, REP. BY SECRETARY,
   DEPARTMENT OF REVENUE, MINISTRY OF FINANCE,
   NEW DELHI.

2. COMMISSIONER OF CUSTOMS,
   CUSTOM HOUSE, COCHIN.

3. DIRECTOR GENERAL OF HEALTH SERVICES,
   MINISTRY OF HEALTH AND FAMILY WELFARE,
   NEW DELHI.

4. DIRECTOR, CENTRAL FOOD LABORATORY,
MYSORE-20.

5. CENTRAL COMMITTEE FOR FOOD STANDARDS
REP. BY ITS SECRETARY, MINISTRY OF HEALTH
AND FAMILY WELFARE, NEW DELHI.

6. THE PORT HEALTH OFFICER,
PORT HEALTH ORGANISATION, W.ISLAND,
COCHIN-9.

BY SRI.JOHN VARGHESE, ASG

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N. RAMACHANDRAN NAIR, J.

W.P. (C) No. 30417 OF 2006 U

Dated this the 17th day of November, 2006

J U D G M E N T

The petitioners imported Betel nuts. The goods are detained by the Customs as the same have not passed the food grade test conducted by the 5th respondent. According to the petitioner, the item imported is primary food for which no standard is prescribed under the Prevention of Food Adulteration Act, 1954. When a similar case, WPC.29864/06, came before this court, this court disposed of the same on 15.11.06 directing the adjudicating authority to pass orders on the petitioners' claim for release of goods without the requirement of test satisfaction. In this particular case, contention raised by the petitioner is that the item is not dried fruit and, therefore, test to be satisfied is the one applicable to primary food. Since the matter has to be adjudicated, it is for the petitioner to raise all these contentions before the adjudicating authority. The adjudicating authority will consider all the contentions raised.

In the circumstances, the writ petition is disposed of with a direction to the 2nd respondent to complete the adjudication within a week from the date of production of a copy of this judgment by the petitioner. The petitioner will take notice and appear for hearing to avoid delay. If the test report is not satisfactory, it is for the Commissioner to get fresh test report.

Issue copy immediately.

(C.N. RAMACHANDRAN NAIR, JUDGE)

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